

STATE OF MONTANA TERM CONTRACT

Department of Administration
State Procurement Bureau
165 Mitchell Building
PO Box 200135
Helena, MT 59620-0135

Phone: (406) 444-2575 Fax: (406) 444-2529

T.C. # SPB03-038B ANALYSIS AND PROGRAMMING SERVICES

This is a non-exclusive contract.

	FROM	July 1, 2004	CONTRACT YEAR	NEW ()
	TO	June 30, 2005		RENEW (X) 2 nd Renewal, 3 rd Year
VENDOR ADDRESS	VARIOUS – SEE “REMARKS” BELOW		ORDER ADDRESS	
ATTN:			ATTN:	
PHONE:			PHONE:	
FAX:			FAX:	

Prices: Per agreements

Delivery: Per agreement

F.O.B.: Destination

Terms: Net 30 days or as agreed upon

REMARKS:

A complete list of contractors and rates can be found at the following site:

<http://discoveringmontana.com/itsd/contract/MISservices.asp>

Agencies must submit an IT Procurement Request Form to the Procurement Services Bureau of the Information Technology Services Division.

IFB/RFP No.:

RFP02-516B

Brad Sanders, Contracts Officer

AUTHORIZED SIGNATURE

STATE OF MONTANA - TERM CONTRACT

Standard Terms and Conditions

By submitting a bid, proposal, or limited solicitation, or acceptance of a contract, the vendor agrees to the following binding provisions:

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

AUTHORITY: The following bid, request for proposal, limited solicitation, or contract is issued in accordance with Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered.

Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

INTELLECTUAL PROPERTY: All patents and other legal rights in or to inventions arising out of activities funded in whole or in part by the contract must be available to the State for royalty-free and nonexclusive licensing. The contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of the contract. The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under the contract.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted, the State is allowed 30 days to pay such invoices.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://www.discoveringmontana.com/doa/gsd> under Reciprocal Preference.

REFERENCE TO CONTRACT: The contract (Purchase Order) number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.state.mt.us/sos>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

Revised 3/02

Appendix A

Term Contract Terms and Conditions

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1.0 PARTIES

This contract is entered into by and between the Montana Department of Administration, (hereinafter referred to as the "Department"), whose address and phone number are 125 N. Roberts and 406-444-2700 and the listing of contractors identified at the following website: <http://discoveringmontana.com/itsd/contract/MISservices.asp>, (hereinafter referred to as the "Contractor").

2.0 EFFECTIVE DATE, DURATION AND RENEWAL

- 2.1 This contract took effect on July 1, 2002. The contract is renewed for the period of July 1, 2004 through June 30, 2005. This is the second renewal third year of this contract.
- 2.2 This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be extended in (1) one-year intervals, or any interval that is advantageous to the State, for a period not to exceed nine (7) additional years. This extension is dependent upon legislative appropriations and in no case may this contract run longer than a (10) ten-year period.

3.0 RATE ADJUSTMENTS

Rate increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any rate increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers will be used to determine the increased value.

4.0 SERVICES AND/OR SUPPLIES

Contractor agrees to provide to the State analysis and programming services in the following Service Area(s):

Reference the following website: <http://discoveringmontana.com/itsd/contract/MISservices.asp>

5.0 REQUIREMENTS

- 5.1 The Contractor shall name an Account Executive to be in place for the duration of the contract. The Account Executive will be the liaison to the Contract Management Liaison, and will assume responsibility for the coordination of all projects under contract. The Account Executive will provide project status reports to the Contract Management Liaison on a monthly basis. Content of report will be determined by the Contract Management Liaison. The Account Executive will meet with the Contract Management Liaison, agency project manager, and/or others necessary to resolve any conflicts or disagreements under this contract.
- 5.2 The Account Executive will provide contract status reports to the Contract Management Liaison on a monthly basis. The Contract Management Liaison must receive monthly reports by the 10th of each month regardless of the amount of contract work being performed. If no work is being performed, the Account Executive must provide that information to the Contract Management Liaison.

The Department has the right to request a report outside of the normal reporting period and the Contractor has up to three (3) working days from the date of the request to comply. The monthly reports shall include:

- ordering agency,
- project name and brief description,
- analysis and programming services area,
- date of purchase/project start date,
- number of hours worked on project for current month,
- dollar amount billed for work on project for current month,
- number of hours worked to date on project and projected total hours,
- dollar amount billed to date for project and projected total cost for project.

The Department does not foresee needing information other than that stated, but reserves the right to make additional requests.

5.3 State agencies and the Contractor will develop the following project aspects:

- Scope/Statement of Work (SOW)
- Project phases
- Specific deliverables and acceptance criteria
- Project termination
- Payment schedule
- Project organization and reporting structure

All work orders will require prior Department approval by the Contract Management Liaison. The Contractor will involve the Department early in the project planning process in order to ensure a timely approval.

Agency and Contractor are encouraged to execute an agreement for each individual project, detailing the items above, and signed by both parties. Any agreement must be referenced in the Work Order and approved by ITSD before any project may begin.

5.4 All subcontracting will require prior approval by the Contract Management Liaison and the agency project manager(s). The Contractor will be responsible for satisfactory performance and payment of all subcontractors. For each work order, the Contractor shall identify the name(s) of subcontractors proposed, specifying the duties that will be performed. The Contractor will identify key subcontractor personnel who will be providing the proposed services. The Contractor will describe the contractual relationship between its organization and the subcontractor.

5.5 It is highly desirable that any systems implemented under this contract employ State standard operating systems and utilize non-proprietary software. All exceptions must receive prior approval from ITSD. Any proprietary software utilized under this contract will be held in escrow for the duration of the contract. Any software developed for and paid for by the ordering agency shall become State property.

6.0 SUPPLIER QUALITY ASSURANCE PROGRAM

6.1 The performance of analysis and programming services contractors will be assessed and

tracked. Assessments will be completed by purchasing agencies and kept on file at ITSD.

6.2 Contractors will have an opportunity to respond to assessments, and independent verification of the assessment may be utilized in the case of disagreement.

6.3 A contractor may be removed from a project and/or this contract in the case of unacceptable performance and lack of corrective action. ITSD will make any final decision to remove a contractor based on the state agency's assessment(s) and comments, the contractor's response and the severity of any negative performance assessment.

ITSD may utilize an independent third party to confirm the assessment of a contractor.

6.4 Completed assessments will be kept on record at ITSD and will serve as past performance data. Past performance data will be available to assist agencies in the selection of IT service providers for future projects. Past performance data may also be utilized in future procurement efforts.

7.0 CONSIDERATION/PAYMENTS

7.1 In consideration for the services to be provided, the ordering agency will pay within 30 days of receipt of a properly executed invoice. The final payment, plus retainer (if applicable), will be made within 30 days of receipt of a properly executed invoice and upon acceptance of completed project. The Contractor will bill each agency directly for services provided.

7.2 Services provided for any project may be charged on a time and materials or fixed price basis.

7.3 The Contractor will indicate the number of hours, the name, the hourly rate for each assigned staff, and the total charges for all staff, and total charges for the entire project. Both current and project-to-date charges must be provided.

7.4 The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

8.0 ACCESS AND RETENTION OF RECORDS

8.1 The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

8.2 The Contractor agrees to create and retain records supporting the services rendered or supplies provided for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

9.0 ASSIGNMENT, TRANSFER AND SUBCONTRACTING

Contractor may not assign, transfer or subcontract any portion of this contract without the express written consent of the Department.

10.0 FAVORABLE PRICES

Contractor agrees that, through the term of the contract and any agreed-upon extension, the State will be entitled to any lower prices made available to any other customer of comparable volume.

11.0 HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

12.0 CONTRACT PERFORMANCE SECURITY

Upon request of the ordering agency on any project, the Contractor will be required to provide contract performance security. The amount of security will be determined by the ordering agency and the Department of Administration.

- 13.0 **General Requirements:** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

Primary Insurance: The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Specific Requirements for Commercial General Liability: The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

Certificate of Insurance/Endorsements: A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

13.0 COMPLIANCE WITH THE WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire contract period. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

14.0 INTELLECTUAL PROPERTY

- 14.1 All patent and other legal rights in or to inventions arising out of activities funded in whole or in part by this contract must be available to the State for royalty-free and nonexclusive licensing. The Contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of this contract.
- 14.2 The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

15.0 PATENT AND COPYRIGHT PROTECTION

- 15.1 In the event of any claim by any third party against the Department that the products furnished under this contract infringe upon or violate any patent or copyright, the Department shall promptly notify Contractor. Contractor shall defend such claim, in the Department's name or its own, as appropriate, but at Contractor's expense. Contractor will indemnify the Department against all costs, damages and attorney's fees that a Court finally awards as a result of such claim. If the Department reasonably concludes that its interests are not being properly protected, it may enter any action. However, any settlement by the Department with the party alleging such infringement or violation shall not be binding upon Contractor and the Contractor shall be under no obligation to pay or indemnify the Department. Further, if principles of governmental or public law are involved, the State of Montana may participate in the defense of any such action.

15.2 If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the Department the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the Department shall be prevented by permanent injunction, the Department agrees to return the product at Contractor's request and the Contractor agrees to grant the Department a credit for full cost of the product and any related product provided by Contractor which can no longer be used effectively without the use of the infringing product.

15.3 This section shall not apply if the infringement, or claim thereof, is based upon the use of products supplied by the Contractor in combination with other software not made or supplied by Contractor (Department or other vendor supplied), or the use of products by the Department with apparatus, data or programs not furnished or supplied by Contractor (Department or other vendor supplied), or products not manufactured or supplied by Contractor (Department or other vendor supplied). This section will apply to all products bid by Contractor.

16.0 COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

17.0 CONTRACT ENFORCEMENT

The contractor is notified that pursuant to 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

18.0 CONTRACT TERMINATION, WITHDRAWALS, AND ADDITIONS

18.1 Breach or non-performance of any contract term shall constitute cause upon which the Department may immediately terminate this contract. This includes beginning work without prior ITSD approval, and failure to submit reports in a timely manner. A contractor that has been removed from a project and/or a contract will be provided with written justification for removal.

18.1.1 The Department or purchasing agency may utilize a corrective action plan and/or notice of cure in the case of breach or non-performance.

18.2 The State, at its sole discretion, may terminate or reduce the scope of this contract, or project if available funding is reduced for any reason.

18.3 Contractors may withdraw their names from the roster at any time by submitting a written request to the Department.

18.4 The Department may periodically re-open the evaluation process to add qualified Contractors to the roster for existing analysis and programming services, or to obtain qualified Contractors for new analysis and programming services Areas. Contractors do not have to re-qualify for services they are currently providing. Contractors may apply for Service Areas that they currently do not provide.

19.0 TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or Contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract or the project work order, (notwithstanding this expiration or cancellation) except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance. If the State terminates a project or this Contract for cause, then the State will be entitled to off set the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

20.0 LIAISON

Contractor and the Department will provide liaison for management of this contract. Written notices or complaints will first be directed to the liaison.

20.1 Contractor Liaison – See Contractors list for Liaison on front cover page under the remarks section.

20.2 Contract Management Liaison. This contract is managed by the Information Technology Services Division of the Department of Administration for the State of Montana in accordance with 2-17-501, MCA. Contract management inquiries and problems should be addressed to:

Procurement Services Bureau
Information Technology Services Division
Annex Building
118 North Roberts
Helena, MT 59620-0113
Telephone: (406) 444-2700
Fax: (406) 444-2701

21.0 HEADINGS

The heading or captions of the sections and subsections of this contract are inserted for convenience only, shall not be deemed to be part of this contract, and in no way define, limit, extend or describe the scope of intent of any provisions hereof.

22.0 MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted.

Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

23.0 CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

24.0 SCOPE, AMENDMENT AND INTERPRETATION

24.1 This contract consists of ten (10) numbered pages, any Attachments as required, RFP #02-516B as amended and the Contractor's response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

24.2 These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

25.0 INDEPENDENT CONTRACTOR

25.1 Contractor is an independent Contractor and neither the Contractor nor its employees are employees of the Department.

25.2 Contractor shall not be compensated for work performed prior to its having provided to the Department a certificate of workers' compensation insurance or a certificate of exemption under 39-71-401, MCA.

26.0 NOTICE

Written notice sent by certified mail, return receipt requested, shall be deemed made when received or initially refused by the other party.

27.0 PRICE PROTECTION

This contract provides price protection by establishing the price for the services as specified for the term of the contract.

28.0 EXECUTION

The parties through their authorized agents have executed this term contract on the dates set out below.

CONTRACTOR: _____

Signature

Date

Name

Title

Address

City, State, Zip Code

Social Security # or Federal Employer ID #

DEPARTMENT OF ADMINISTRATION – **Information Technology Services Division**

Signature

Date

Jeff Brandt/Acting CIO

Approved as to form and content:

Legal Counsel, Department of Administration

State Procurement Bureau